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March 5/49

From publication office

Original copy of the Constitution of the State of Deseret. Memorial so Presented by W. H. Felt, Oct. 21. 1850.

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Notice is hereby given to all ~~of~~ the Citizens of that portion of Upper California lying East of the Sierra Nevada Mountains, that a Convention will be held at the Great Salt Lake City, in said Territory, on Monday, the 5th day of March next, for the purpose of taking into consideration the propriety [redacted] Territorial or State Government.

Dated at the Great Salt Lake City, Great Basin, North America, this first day of February 1849

Many Citizens.

Monday, March 5th, A D 1849 In pursuance of public Notice, heretofore given, a large portion of the Inhabitants of that portion of upper California, lying East of the Sierra Nevada Mountains, Met at the Great Salt Lake City, and organized themselves into a Convention, by electing Daniel Spencer, Chairman; William Clayton, Secretary, Thomas Bullock, Assistant Secretary of said Convention, and Horace S Eldridge Marshall

After several addresses and deliberations, the said Convention proceeded to appoint a Committee of Ten, to draft, and report to said Convention, a Constitution, under which the Inhabitants of said Territory may organize and govern themselves, until the Congress of the United States shall otherwise provide by law. Whereupon the Chairman of said Convention appointed Albert Carrington, Joseph L. Heywood, William W. Phelps, David Fullmer, John S. Fullmer, Charles C. Rich, John Taylor, Parley P. Pratt, John M. Bernhisel, and Erastus Snow, Members of said Committee: after which the Convention adjourned, until Thursday, the 8th day of March, at ten o'clock, A. M. to receive and deliberate upon the report of said Committee

Thursday, March 8th, A. D. 1849 The Convention again assembled, pursuant to adjournment, and proceeded to business: Whereupon, the report of the Committee

appointed on Monday, to draft a Constitution, being called for, Albert Carrington, Chairman of said Committee reported the following

Preamble and Constitution.

Whereas a large number of citizens of the United States, before, and since the Treaty of Peace with the republic of Mexico, emigrated to, and settled in that [redacted] of the United States, lying West of the Rocky Mountains, and in the Great Interior Basin of Upper California and

Whereas, by reason of said treaty, all civil organization, originating from the republic of Mexico became abrogated; and

Whereas, the Congress of the United States has failed to provide a form of civil government for the Territory so acquired, or any portion thereof, and

Whereas, Civil government and laws are necessary, for the security, peace and prosperity of Society, and

Whereas, it is a fundamental principle in all republican governments, that all political power is inherent in the people; and governments instituted for their protection, security and benefit, should emanate from the same

Therefore, your Committee beg leave to recommend the adoption of the following Constitution, until the Congress of the United States, shall otherwise provide for the Government of the Territory hereinafter named and described.

We, the People, grateful to the Supreme Being for the blessings hitherto enjoyed, and feeling our dependence on Him for a continuation of those blessings, do ordain, and establish a free and independent Government, by the name of the State of **Deseret**; including all the Territory of the United States within the following boundaries, to wit; commencing at the 33° N. Latitude where it crosses the 108° Longitude, West of Greenwich; thence running South and West to the Northern boundary of Mexico, thence West to, and down the Main Channel of the Gila River, on the Northern line of Mexico, ~~to the Gulf of California~~, ~~thence West~~ and on the Northern boundary of lower California to the Pacific Ocean; thence along the Coast North Westerly to the 118° 30′ of West Longitude; thence North to where said line intersects the dividing ridge of the Sierra Nevada

Mountains, thence North along the Summit of the Sierra Nevada Mountains to the dividing range of Mountains, that separate the Waters flowing into the Columbia River, from the Waters running into the Great Basin, thence Easterly along the dividing range of Mountains that separate said Waters flowing into the Columbia River on the North, from the Waters flowing into the Great Basin on the South, to the Summit of the Wind River Chain of Mountains, thence South East and South by the dividing range of Mountains that separate the Waters flowing into the Gulf of Mexico, from the Waters flowing into the Gulf of California; to the place of beginning, as set forth in a Map drawn by Charles Preuss, and published by order of the Senate of the United States, in 1848.

Article 1st The powers of Government of the State of Deseret shall be divided into three distinct departments; viz. Legislative, Executive, and Judiciary.

Article 2nd of the Legislative.

Section 1. The legislative authority, of this State, shall be vested in a General Assembly, consisting of a Senate, and House of Representatives; both to be elected by the People.

Section 2. The Session of the General Assembly, shall be annual; and the first Session be held on the first Monday of July next; and, thereafter, on the first Monday of December; unless the Governor of the State shall convene the Assembly, in the interim, by Proclamation.

Sec 3 The Members of the House of Representatives shall be chosen biennially, by the qualified Electors of their respective Districts, on the first Monday in August; whose term of Office shall continue two years from the day of the General Election.

Sec. 4. No person shall be a Member of the House of Representatives, who has not attained the age of 25 years; the same to be a free, white, male Citizen of the United States, and an Inhabitant of this State, one year preceding the time of his Election, and a Resident of the District or County 30 days next preceding his Election, and have, at his Election, an actual residence in the District he may be chosen to represent.

Sec. 5. Senators shall be chosen for the term of four years, at the same time and place of Representatives; they shall be thirty years of age, and possess the qualifications of Representatives, as to residence and citizenship.

Sec. 6. The number of Senators shall not be less than one third, nor more than one half of the Representatives; and at the first session of the General Assembly, after this Constitution takes effect, the Senate shall be divided by lot, as equal as may be, into two classes; the Seats, of the Senators of the first class, shall be vacated at the expiration of two years, so that one half of the Senate shall be elected biennially.

Sec. 7. Each house shall choose its own Officers; and judge of the qualification, election, and return of its own Members: and contested elections shall be determined in such manner as shall hereafter be directed by law.

Sec. 8. A majority, in each house, shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalty, as each house may provide.

Sec. 9. Each house shall have all powers necessary for a branch of the General Assembly of a free and independent Government.

Sec. 10. Each member of the Assembly shall be privileged from civil arrest, during any Session, and in going to, and returning from the same.

Sec. 11. Neither house shall, without the consent of the other, adjourn for more than three days; nor to any other place, than that in which they may be sitting.

Sec. 12. The Assembly shall, at its first Session, provide for an enumeration of the White Inhabitants, and an Apportionment for the Senators and Representatives.

Sec. 13. Each member of the Assembly shall take an Oath or affirmation to support the Constitution of the United States, and of this State; and Members shall, and are hereby empowered to administer said Oath, or Affirmation, to each other.

Sec. 14. The veto power of the Governor, shall be allowed by the Assembly, except on bills, which, when reconsidered, shall be again passed by a Majority of two thirds of those present; and any bill vetoed by the Governor, shall be returned within ten days, (Sundays excepted,) with his objections; otherwise it shall become a law; unless the Assembly, by adjournment, prevent its return.

Sec. 15. Every law passed by the Assembly, shall take effect from and after due publication, by authority.

Sec. 16. The voters of this State, may elect, at the first election, not exceeding Seventeen Senators, and thirty five Representatives.

Article 3rd of the Executive.

Sec. 1. The Executive power shall be vested in a Governor, who shall hold his office for four years. A Lieutenant Governor shall be elected at the same time, and for the same term, who shall be the President of the Senate.

Sec. 2. No person shall be eligible to the Office of Governor, or Lieutenant Governor, who has not been a Citizen of the United States, and a resident of this State, two years next preceding his Election, and attained the age of thirty five years, at the time of his Election.

Sec 3. The Governor shall be Commander in Chief of the Militia, Navy, and all the armies of this State.

Sec. 4. He shall transact all executive business with the Officers of Government, Civil and Military; and may require information in writing from the Officers of the Executive Department, upon any subject relating to the duties of their respective Offices.

Sec. 5. He shall see that the laws are faithfully executed.

Sec. 6. When any office shall, from any cause, become vacant, and no mode is prescribed by the Constitution and laws for filling such vacancy, the Governor shall have power to fill such vacancy, by granting a Commission, which shall expire when such vacancy shall be filled by due course of law.

Sec. 7. He shall also have power, to convene the General Assembly, by Proclamation, when in his opinion the Interests of the State require it.

Sec. 8. He shall communicate by Message to the General Assembly, at every Session, the condition of the State; and recommend such matters as he shall deem expedient.

Sec. 9. In case of disagreement in the General Assembly, with regard to the time of adjournment, the Governor shall have power, to dissolve the Session, by Proclamation.

Sec. 10. No person shall, while holding any lucrative office under the United States, or this State, execute the office of Governor, except as shall be prescribed by law.

Sec. 11. The Governor shall have power to grant reprieves and pardons, and commute

punishments after conviction; except in cases of impeachment.

Sec. 12. The Governor shall receive, for his services, such compensation as shall hereafter be provided by law.

Sec. 13. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially; and shall be called the Great Seal of the State of Deseret.

Sec. 14. All grants and commissions shall be in the name and by the authority of the people of the State of Deseret; sealed with the great seal of this State, signed by the Governor, and countersigned by the Secretary of State.

Sec. 15. A Secretary of State, Auditor of Public Accounts, and Treasurer, shall be elected by the qualified Electors, who shall continue in office for the term of four years. The Secretary of State shall keep a fair registry of all the Official Acts of the Governor, and shall when required, lay the same, together with all papers, minutes, and vouchers, relative thereto, before either Branch of the General Assembly, and shall perform such other duties as shall be assigned him by law.

Sec 16. In case of the Impeachment of the Governor, his removal from Office, death, resignation, or absence from the State, the powers and duties of the Office shall devolve upon the Lieutenant Governor, until such disability shall cease, or the vacancy be filled.

Article 4th, of the Judiciary.

Sec. 1. The Judicial power shall be vested in a Supreme Court, and such Inferior Courts, as the General Assembly shall from time to time establish.

Sec 2. The Supreme Court shall consist of a Chief Justice, and two Associates, either two of whom shall be a Quorum to hold Courts.

Sec. 3. The Judges of the Supreme Court shall be elected by joint vote of both houses of the General Assembly, and shall hold their Courts at such time and place as the General Assembly shall direct; and hold their Office for the term of four years, and until their successors are elected and qualified. The Judges of the Supreme Court shall be Conservators of the Peace throughout the State, and shall exercise such other jurisdictions and appellate powers as, shall be prescribed by law.

Sec 4. The Style of all process shall be the State of Deseret, and all prosecutions shall be in the

name and by the authority of the State.

Article 5th of Elections.

Sec. 1. The Governor, Lieutenant Governor, Auditor of Accounts, Treasurer and Secretary of State, shall be elected by the qualified Electors, as provided for Members of the General Assembly, and at the time and place appointed for holding the same.

Sec. 2. The returns of every Election for Governor, Lieutenant Governor, Auditor, Treasurer, and Secretary of State, shall be sealed up, and transmitted forthwith to the Seat of Government, directed to the Speaker of the House of Representatives; who shall, during the first week of the Session, open and publish them in the presence of both houses of the General Assembly; and the persons, receiving a majority of all the legal votes cast for their respective Offices, shall be declared duly elected.

Sec. 3. The Governor, Lieutenant Governor, Auditor, Treasurer and Secretary of State, shall before entering upon the duties of their respective Offices take an Oath, or Affirmation, to support the Constitution of the United States, and of this State; which Oath, or Affirmation, shall be administered by the Speaker of the House of Representatives.

Sec. 4. The first Election for members of the General Assembly, and other Officers under this Constitution, shall be held on the first Monday of May next, at the usual places of holding public meetings, in the different Districts and Settlements; at which time and place, the qualified voters shall vote for or against the adoption of this Constitution; and, if a majority of all the legal votes, shall be in favor of its adoption, the same shall take effect from and after said Election.

Sec. 5. At the time and place of holding the Elections, the qualified Electors shall organize the Polls by appointing two Judges, who shall be authorized to qualify each other, and appoint two suitable persons, as Clerks; and, said Judges shall, at the close of said Election, seal up the number of votes so cast, and forthwith transmit them to the President of this Convention.

Sec. 6. The returns of the first Election, herein provided for, shall be made to the Chairman of this Convention; who, together with the two Secretaries, shall proceed immediately to open said returns, and count the votes; upon ascertaining the persons receiving a majority of votes, they shall forthwith notify them of their Election.

Sec. 7. The General Assembly shall, at its first Session, provide by Law, a general System of Election for Officers, under this Constitution; and such other Officers as may be hereafter created by Law.

Sec. 8. The manner of voting shall be by ballot.

Sec. 9. The General Assembly shall meet at Great Salt Lake City; which place shall be the Seat of Government, until otherwise provided by Law.

Sec. 10. All white male residents of this State, over the age of 21 years, shall have the privilege of voting at the first Election, and at the adoption of this Constitution; Provided, that no person in the Military, Naval, or Marine service of the United States shall be considered a resident of this State, by being stationed in any Garrison, Barrack Military, or Naval place, or Station within this State; unless otherwise provided for by law.

Article 6th Of Militia.

Sec. 1. The Militia of this State shall be composed of all able bodied, White, Male Citizens; between the ages of 18 and 45 years, except such as are, or may hereafter be exempt, by the Laws of the United States or of this State; and shall be armed, equipped, and trained, as the General Assembly may provide by law.

Sec. 2. All commissioned officers of the Militia, (Staff Officers excepted,) shall be elected by the persons liable to perform Military Duty in their respective divisions; and all Commissioned Officers shall be commissioned by the Governor.

Article 7th Amendments of the Constitution.

Sec. 1. If at any time the General Assembly shall deem it necessary, and for the best Interest of the State, that this Constitution should be revised, altered, or amended; The Assembly shall cause such revisions, alterations, or amendments, to be published, in the same manner as shall be provided for the publication of the Statutes; and appoint a day, not less than thirty days thereafter, for the Electors of the Commonwealth to assemble in their several precincts, and vote for or against said revisions, alterations, or amendments;

and if a majority of said Electors shall vote in favor of said revisions, alterations, or amendments, the same shall hereafter become parts and parcels of this Constitution; otherwise, this Constitution shall remain unaltered.

Article 8th Declaration of Rights.

Sec. 1. In Republican governments, all Men should be born equally free and Independent, and possess certain natural, essential, and inalienable rights, among which, are those of enjoying and defending their life and liberty; acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness.

Sec 2. All political power is inherent in the people; and all free Governments are founded in their authority, and instituted for their benefit; therefore, they have an inalienable and indefeazable right to institute Government; and to alter, reform, and totally change the same, when their safety, happiness, and the public good shall require it.

Sec. 3. All men shall have a natural and inalienable right to worship God, according to the dictates of their own consciences; and the General Assembly shall make no law respecting an Establishment of Religion, or of prohibiting the free exercise thereof, or disturb any person in his religious worship or sentiments; Provided he does not disturb the public peace, nor obstruct others in their religious worship: and all persons, demeaning themselves peaceably, as good Members of the State, shall be equally under the protection of the laws; and no subordination or preference of any one Sect or denomination to another, shall ever be established by law; nor shall any religious test be ever required for any Office of trust under this State.

Sec 4. Any Citizen of this State, who may hereafter be engaged, either directly or indirectly, in a duel, either as principal, or accessory before the fact, shall be disqualified from holding any Office under the Constitution and laws of this State.

Sec. 5. Every person may speak, write, and publish his sentiments, on all subjects, being responsible for the abuse of that right: and no law shall be passed to abridge the liberty of Speech or of the Press.

Sec. 6. The people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures.

Sec. 7. The right of trial by jury shall remain inviolate; and all criminals shall be heard

by self, or Council, at their own Election.

Sec. 8. All penalties and punishments shall be in proportion to the offence; and all offences, before conviction, shall be bailable; except Capital offences, where the proof is evident, or the presumption great.

Sec. 9. The writ of Habeas Corpus shall not be suspended, unless in cases of rebellion, or invasion, or the public safety shall require it.

Sec. 10. Treason against this State, shall consist only in levying War against it, or adhering to its enemies, or giving them aid and comfort.

Sec. 11. The General assembly shall pass no bill of Attainder, or ex post facto law, or law impairing the obligation of Contracts to hinder the execution of justice.

Sec. 12. The laws shall not be suspended, but by the Legislative, or Executive Authority.

Sec. 13 The right of Petition, by the People, shall be preserved inviolate.

Sec. 14. The right of citizens, to keep and bear arms for common defence, shall not be questioned.

Sec. 15. Private property shall not be taken for public use, without just compensation.

Sec. 16. No standing Army shall be kept up, in time of Peace, and the Military shall at all times, and in all places, be in strict subordination to the Civil power.

Sec. 17. The enumeration of certain rights shall not be construed to impair, nor deny others, retained by the People.

After the reading of the report, and Constitution. It was motioned, seconded, and carried unanimously, that the report of the Committee be accepted, and they discharged from further duties.

Convention adjourned until Friday the 9th at 10. a.m.

Abstract from the Journals of the Convention and General Assembly

Friday, March 9. 1849. Convention met pursuant to adjournment, and immediately proceeded to the consideration of the Constitution, as reported by the Committee, on the reading of which, Willard Snow Esqre moved its adoption: after many speeches, suggested amendments and alterations; Convention adjourned until Saturday, at 10. a.m.

Saturday, March 10th 1849. Convention met pursuant to adjournment. The subject of the Constitution being still under consideration, and the previous question,

being called for, it was unanimously carried, and the Constitution adopted. On motion of W. W. Phelps, Convention adjourned without date.

Monday, July 2nd, 1849. The Members of the House of Representatives, assembled at the Great Salt Lake City, and being called to order by Daniel Spencer Esqre. the Chairman of the Convention, Robert Campbell was appointed Clerk, pro tem. The following Members presented their credentials, were duly qualified and took their Seats: viz: Willard Snow, David Fullmer, Philip B. Lewis, Parley P. Pratt, John S. Fullmer, Charles Shumway, John Taylor, John Pack, Joel H. Johnson, Lorenzo Snow, Simeon Andrews, John Murdock, Ira Eldridge, John Van Cott, Joseph A. Shatton, George B. Wallace, Daniel H. Wells, Jedediah M. Grant, Benjamin F. Johnson, Erastus Snow, Edward Hunter, Edwin D. Woolley, Jefferson Hunt, Daniel C. Davis, Franklin D. Richards, Isaac Higbee, Isaac Haight, William Hickenlooper, Seth Taft, and Hosea Stout.

The Chair gave notice to the House that a majority of all the Votes of the People had been given for the adoption of the Constitution; and that Brigham Young, had received a majority of all the votes given for Governor. Heber C. Kimball, for Lieutenant Governor. Willard Richards, Secretary of State. William Clayton, Auditor of Public Accounts and Expenditures. Joseph L. Heywood, Treasurer. whereupon the House appointed a Committee of three, viz, Daniel H. Wells, J. M. Grant, and John S. Fullmer Esqrs., to wait upon those Gentlemen.

The house then proceeded to organize by electing Willard Snow Esqre. Speaker; Albert Carrington, Clerk; John D. Lee, Assistant Clerk, and George D. Grant, Sergeant at Arms. The Chairman conducted the Speaker to his Seat, whereupon the house adjourned, until Tuesday, 3rd inst, at 10. A.M.

Tuesday, July 3rd, 1849. House met, pursuant to adjournment. Journal being read, the Committee, appointed to wait upon the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts and Treasurer, introduced them to the house, whereupon the Speaker of the House administered the Oath of Office to each, respectively, according to law.

The following resolutions were then offered by John S. Fullmer.

Resolved, that the General Assembly of this State, memorialize the Congress of the United

States, for a State, or Territorial Government.

Resolved that a Select Committee of three, on the part of the House, and of two, on the part of the Senate, be appointed to meet in joint Committee, to draft said Memorial.

Resolved, that the General Assembly of this State, elect a delegate to the Congress of the United States, to present said memorial, and represent the interests of this State in that Honorable body.

Resolved, that the Senate meet the house of Representatives, on Thursday the 5th instant, (the fourth being our National Anniversary) in joint ballot, to elect said delegate, in all of which, the Concurrence of the Senate is requested, the resolutions being seconded, passed unanimously. whereupon the Speaker ~~elected~~ appointed Lorenzo Snow, Jedediah M. Grant, and John Taylor said Committee, on the part of the House.

On motion the house adjourned until Thursday the 5th at 10. a.m.

July 5th The house met pursuant to adjournment.

The journal being read; and the Senate having concurred in the resolutions passed by the house on Tuesday the 3rd instant, met the house, in joint Session, and proceeded to ballot for a delegate and Representative to Congress, when Almon W. Babbitt Esqr having received a majority of all the votes, was declared duly elected; whereupon the Senate withdrew. the house adjourned until Friday 6th at 10. a.m.

Friday, July 6th, 1849, The house met, pursuant to adjournment.

The Journal of the House being read. reports of Committees being called for, Lorenzo Snow the Chairman of the select joint Committee, reported the following Memorial

Memorial

* [illegible]

On motion, it was voted that the report be accepted, and the Committee discharged from further duties.

Parley P. Pratt offered the following resolutions.

1st Resolved, the Senate concurring therein, that two ~~hundred~~ thousand copies of this Memorial, together with the Constitution, and an abstract of all records, journals, and other documents, pertaining to the organization of this State, be printed.

2nd Resolved, that the President of the United States, the Senate, and the house of Representatives, each, be furnished with a Copy thereof

The Resolutions were seconded and passed.

House adjourned until Monday, at 10. a.m.

Journal of the Senate.

July 2nd, 1849. The Senate assembled in Great Salt Lake City, and proceeded to organize themselves, by choosing Newel K. Whitney, President pro tem; Thomas Bullock, Clerk; and John Scott, Sergeant at Arms.

The following Senators, viz, Isaac Morley, Reynolds Cahoon, Newel K. Whitney, John Smith, Phinehas Richards, Shadrach Roundy, William W. Phelps, John Young, Daniel Spencer, Joseph Fielding, Cornelius P. Lott, David Pettigrew, Abraham O. Smoot, and Charles C. Rich, presented their credentials, and after being duly qualified took their Seats.

On motion of Senator John Smith, the Senate adjourned until Tuesday at 10 a.m.

July 3rd, 1849, Senate met pursuant to adjournment.

The Journal being read, upon motion of Senator Morley, a Committee of three, namely Daniel Spencer, Joseph Fielding, and Cornelius P. Lott, was appointed to notify the Lieutenant Governor of their organization, and to wait upon him to the Chamber of the Senate.

The Lieutenant Governor, being introduced into the Chamber, was conducted, by the President pro tem, to his Seat.

The Message from the House being called for, the Clerk read the resolutions of the House of Representatives, concerning a select committee to prepare a Memorial to Congress & the Election of a Delegate, &c, asking the concurrence of the Senate, therein.

On motion of Senator Richards, the resolutions of the house were unanimously concurred in, and the President of the Senate appointed Isaac Morley and Reynolds Cahoon, said Committee, on the part of the Senate.

On motion of Senator Roundy, Senate adjourned until Thursday the 5th, at 10. a.m.

Thursday, July 5th, 1849. Senate met pursuant to adjournment.

The journal being read, a message was received from the House of Representatives, notifying the Senate that they were ready to meet them in joint ballot, whereupon the Senate repaired to the House of Representatives.

The business for which the two houses met being accomplished, the Senate returned to their Chamber, and on motion adjourned until Monday the 9th, at 10. a.m.

Monday, July 9th, 1849. Senate met pursuant to adjournment.

After the reading of the Journal, on Call the Clerk read the Memorial of the select joint Committee, as reported to the House, together with the accompanying resolutions; in which the Senate was asked to concur; the Senate concurred according to request.

On motion of Senator Rich, adjourned until Tuesday 10th, at 10. a.m.

Provisional
~~Provincial~~ State } ss
of Deseret

I hereby certify that the foregoing Constitution, Memorial, Synopsis of Journals, &c, are a true copy of Public Documents on file in my Office.

Given under my hand at my Office in Great Salt Lake City this 18th day of July A. D. 1849.

William Richards

Secretary of State